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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 NETFLIX, INC., a Delaware corporation,
11 Plaintiff,

12 v.

13 BLOCKBUSTER, INC., a Delaware
14 corporation, DOES 1-50,

15 Defendant.
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Case No. C 06 2361 WHA

**[CORRECTED] NETFLIX'S
DISCLOSURE OF ASSERTED CLAIMS
AND PRELIMINARY INFRINGEMENT
CONTENTIONS FOR U.S. PATENT NOS.
7,024,381 AND 6,584,450**

Complaint filed: April 4, 2006

1 Pursuant to Patent L.R. 3-1 and 3-2, Plaintiff Netflix, Inc. (“Netflix”) hereby discloses its
2 asserted claims and preliminary infringement contentions and identifies the accompanying
3 document production for U.S. Patent Nos. 7,024,381 (the “381 Patent”) and 6,584,450 (the
4 “450 Patent”).

5 **INTRODUCTION**

6 This disclosure is made solely for the purpose of this action. This disclosure is subject to
7 all objections as to competence, relevance, materiality, propriety, and admissibility, and to any
8 and all other objections on any grounds that would require the exclusion of statement contained
9 herein if such disclosure were asked of, or statements contain herein were made by, a witness
10 present and testifying in court, all of which objections and grounds are expressly reserved and
11 may be interposed at the time of trial.

12 Discovery in this matter is still at a very early stage and is ongoing. Indeed, Netflix has
13 still obtained no discovery from Defendant Blockbuster Inc. (“BBI”) regarding the
14 BLOCKBUSTER Online® system, or its architecture, its implementation, or its operating
15 software, hardware and other. Netflix’s investigation regarding past and present grounds of
16 infringement is ongoing.

17 Netflix’s disclosure is given without prejudice to Netflix’s right to add to, supplement,
18 amend, or modify its disclosure as additional facts are ascertained, analyses are made, research is
19 completed, and claims are construed. Netflix’s disclosure is not and cannot be complete at this
20 time and is subject to revision.

21 **PRELIMINARY INFRINGEMENT CONTENTIONS FOR** 22 **U.S. PATENT NOS. 7,024,381 AND 6,584,450**

23 Netflix’s Preliminary Infringement Contentions pursuant to Patent L.R. 3-1(a)-(c) for the
24 ‘381 Patent and the ‘450 Patent are provided respectively as Exhibits A and B, wherein each
25 claim that is allegedly infringed is identified [hereinafter “asserted claims”].

26 Pursuant to Patent L.R. 3-1(d), Netflix contends that each element of each asserted claim
27 listed in Exhibits A and B is literally present in the Accused Methods or Systems based upon the
28 information known to Netflix as of this date. Netflix reserves the right to assert infringement

1 under the doctrine of equivalents after further discovery of BLOCKBUSTER Online®'s
2 methods and systems, and after claims are construed.

3 Pursuant to Patent L.R. 3-1(e), Netflix contends that the asserted claims of the '381 and
4 '450 Patents are entitled to a priority date of at least as early as July 20, 1999.

5 Wishing to preserve its right to rely on the assertion that its own methods and systems
6 practice the claimed invention pursuant to Patent L.R. 3-1(f), Netflix discloses that it practices
7 each asserted claim in both the '391 and '450 Patents.

8 **NETFLIX'S DISCLOSURE OF DOCUMENTS**

9 Pursuant to Patent L.R. 3-2(c), Netflix has produced documents Bates Nos.
10 NFLIX0000001 through NFLIX00002517. Pursuant to mutual agreement of the parties, the
11 production required pursuant to Patent Local Rule 3-2(a) and (b) will be produced on July 28,
12 2006, as part of Netflix's initial disclosures pursuant to Fed. R. Civ. P. 26.

13 Discovery in this matter is still at an early stage and is ongoing. Consequently, Netflix
14 continues to investigate the facts relating to this action. Netflix anticipates that, as this action
15 proceeds, further documents may be discovered, or their significance better understood, and
16 Netflix reserves the right to modify, amend, and/or supplement its responses with such pertinent
17 documents.

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19 Dated: July 20, 2006

KEKER & VAN NEST, LLP

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21 By: /s/ Daralyn Durie
22 DARALYN DURIE
23 Attorneys for Plaintiff
24 NETFLIX, INC.
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